ENERGY POLICY ACT OF 2003 – CONFERENCE REPORT
November 20, 2003

Madam President, I wish to continue what I think has been a fairly lively and informative discussion on the Energy bill which is before us. A lot of the time has been focused, of course, on the language which exempts the manufacturers of MTBEs from liability and which does it in a retroactive way which is extremely penal to those States that decided to use their rights to try to protect the ground water of the populace by bringing lawsuits and, as a result, will now be barred from those lawsuits, not only prospectively but actually ex post facto.

That seems to be an outrage in and of itself, of course, coupled with the fact an additional $2 billion is going to be spent to subsidize the companies that are producing the MTBE. That just adds insult to injury. The list of issues involving MTBE goes on and on, and they have been explored at considerable length on the floor.

I want to return to another element of this bill that concerns me, and that is the fact that it is extremely profligate in its use of Federal tax dollars and especially the manner in which those tax dollars are used. It would be appropriate to have an energy policy in this country. That is absolutely necessary, in fact. If we are going to have an energy policy, it ought to be based on three basic purposes: One, it should be based on reducing consumption through, hopefully, conservation; two, it should be based on producing renewables that can be used over and over and, therefore, reduce our reliance on international oil; and, three, it should be based on the need to create more production of resources that can be used for energy.

All of those elements should have some sort of marketplace relevance. In other words, you can't suddenly go out and pervert the marketplace by essentially saying you are going to pick a winner and that winner, even though it may not be commercially viable and even though it may not be even environmentally viable, will be given a dramatic increase in support from the Federal Government simply because it happens to be the item of the day for those folks who happen to be writing this bill.

Unfortunately, that is the way this bill is put together. It is a hodgepodge of little interests--some of them rather large interests, some of them extremely large interests--that were able to get to the table and get their interests taken care of but not in an orderly way, not in a way that had an overarching theme, such as creating conservation, creating renewables, and creating production but, rather, in a manner that says we are going to pick winners and losers; certain segments are going to be the winners, and certain segments are going to be the losers; certain regions are going to be winners to the detriment of other regions; and essentially we are going to try to logroll this bill through the Senate even though on its face it has no relationship to national energy policy.

The list is quite long of items which you have to say, if you are going to try to be kind, are arbitrary--arbitrary at best--but they invade the taxpayers' wallet.

Let me read a few of them: $2 billion for companies in Texas and Louisiana to compensate for their phaseout of the gasoline additive MTBE. I find that to be one of the most outrageous since those companies are also, at the same time, demanding they be held basically free of any liability for having produced MTBE which is such a huge detriment to the country-- $2 billion in tax deductions for oil and gas companies for purposes of geological and geophysical expenditures; $500 million for a new loan program for the oil and gas industry to demonstrate and encourage new technology. The program leaves it to the discretion of the Secretary and the loan recipients to establish interest rates and loan repayment schedules.

You have to admit, that is creative. The last time I went into a bank, I, as the borrower, did not get to pick my loan payment rate and my repayment schedule. These are very creative people who sat around this table taking care of your tax dollars.

There is $2 billion in taxpayers' money to be used for cleaning up gasoline and chemical spills from leaking underground storage tanks, a worthy goal, until one learns this fund will even fund cases where the polluter can be identified, letting the polluting individual or company off the hook and putting the hook into the American taxpayer.

There is $2.9 billion in corporate welfare for some of the wealthiest corporations in the fossil fuel industry; $800 million for a loan to build a coal gasification plant in Minnesota; $1.1 billion for the first-ever production tax credit for coal.

The bill expands the solar energy and geothermal investment tax credit to include clean coal investment. That is a unique view of renewables. That is creative use of the term ``renewables''--to throw solar and geothermal in with clean coal; $1.5 billion for loan guarantees for coal plants, more than $1.4 billion over the next 5 years.

The bill establishes a federally funded research and development program to ensure coal remains a cost-competitive source of electrical generation as a chemical feedstock and for transportation fuels. This is a classic example of trying to control the marketplace arbitrarily with tax dollars.

Basically, what we are saying is even if it doesn't work competitively, we are going to subsidize it, and we are going to force it to work in the marketplace to the tune of these billions and billions of dollars. That list goes on.

One of the most interesting ones is what they did with the abandoned mines land fund. This fund collects fees on all coal mines in the United States to clean up the dangerous mines abandoned before 1977. That is an extremely worthy goal. Obviously, we don't want the mines out there, and the damage they do to the environment is significant.

Over $6 billion is needed to mitigate the environmental damage from these abandoned mines, but there is only $1 billion in the fund today. This proposal would reauthorize the fund for another 15 years, reduce the fee to mining companies by 20 percent, and transfer $275 million from the fund to address the deficit in the United Mine Workers Combined Benefit Fund and direct 10 percent of the Federal mineral leasing moneys to address the money owed from the AMI fund to Wyoming and Montana.

Over the next 3 years, the proposal would cost approximately $1.4 billion, but the mines would not get cleaned up because the money would have been siphoned off for these special projects. That is what is called special interest governance. Two billion dollars in the provision could defray some of the costs incurred by utility companies in installing pollution control equipment in old coal-burning plants to comply with the clean air bill. That sounds reasonable except for the fact we have to realize that these plants have been exempt from the Clean Air Act now for over a decade and they were given the exemption so they could work their way into being clean.

Other plants have come online, with the consumer paying the costs of having those plants be clean-air-producing plants. So consumers are paying for new plants but now they are going to get to pay twice--not the local consumers but the region of the whole country is going to get to pay twice for the old plants that do not meet the responsibility and have refused to upgrade their responsibility. Picking winners and losers again in the marketplace in a way that is extremely arbitrary and simply reflects the fact that certain interests were at the table that had the ear of the people who were effective in developing the bill.

Ethanol is a program that has taken on a life of its own. Regrettably, that life is paid for by the whole country, especially by parts of the country which see no significant benefit from this product, at an extraordinarily high cost. Since 1978, the U.S. Government has granted a multitude of tax incentives and subsidies to promote the growth of the domestic ethanol industry. The industry and its supporters, including suppliers of ethanol--the primary input, corn--maintain that ethanol is an effective and environmentally sound way to substitute for gasoline. However, the huge subsidies given out year after year have benefited few besides the corn growers and the ethanol producers, which are often very large companies.

Despite the claims, ethanol has neither reduced our dependence on foreign oil nor has it significantly reduced pollution. Taxpayers' repeated payments in the form of subsidies to corn growers and ethanol producers, and the opportunity it costs, serves no other purpose than to artificially prop up the price of corn and the ethanol industry.

The list of subsidies that have been developed over the years is rather staggering. In the last farm bill, we put $26 billion into that bill over a 6-year period to assist people who grow corn. This is independent of the ethanol issue. That is $4.3 billion a year. Maybe that is legitimate. The farm program has some serious problems, but maybe that $4.3 billion was legitimate.

It turns out that is just the beginning, because this bill doubles the mandate for the minimum use of ethanol to 5 billion per year, costing the American taxpayer, because ethanol is not an efficient way to produce energy, an extra $6 billion. That means that $6 billion comes from taxpayers across the country in the form of higher prices to pay for an ethanol product which was already subsidized under the farm bill to the tune of $26 billion. Then on top of that, we have to pay to create two new research programs in this bill for ethanol.

One would think, after we had put $26 billion in the farm bill and $6 billion out of the taxpayers' pockets through the direct subsidy of the gasoline, they would have at least had the courtesy to pay for their own research. That is what most market-oriented products do; they go out and they research and determine whether they can produce the product. And they do not charge that research to the Federal Government. They charge it to their end product users, which is us again and we have to pay for it. But, no, that is not the case. We have to pay $12 million in this bill to create two new research initiatives.

Then, on top of the $5.9 billion in subsidies, and the $26 billion in farm subsidies, we also have to give $750 million to the ethanol producers for the cost of building their production facilities. This is the most incredible program. First, we underwrite the raw material with tax dollars, probably to a point where we actually see the net income of the people who are actually producing the raw materials. That otherwise would be described as a national socialist approach to an economy, certainly not a market economy. Then we have to get people to pay to subsidize the purchase of the product to the tune of $6 billion, and then we have to pay $750 million to build the facilities to produce the product. The list just goes on and on.

On top of all of this, there is another $2 billion of tax credit which goes to the producers of this product in this bill. They were not happy with the fact that the small producers were going to get this tax credit so they had to expand it, so they picked up a whole group of new producers which are much bigger people in the way of income. They essentially doubled the small producer language in this bill. So we now have fairly significant people getting this huge credit. On top of the farm subsidy, on top of the subsidy for purchasing the gas, on top of the subsidy for building the production facilities, on top of the subsidy for researching the production facilities, we have a tax credit.

It is truly an amazing act of largess on the part of the American taxpayer. We all feel very good about this, I am sure. We have been able to pursue a policy in this bill that is essentially spending these types of dollars on our friends who produce this product and manufacture this product. The problem is that by doing this type of a commitment to this product and the producers of the product and the manufacturers of the product, we have totally perverted the marketplace.

We have essentially picked a winner, ethanol, and we have said that winner is going to get so heavily subsidized, and then require that the product be used, plus used in a way that is extremely detrimental to an area such as New England because in New England ethanol cannot be shipped in. It does not transport through pipelines because it is too corrosive in the pipelines. It does not transport by truck or train because it is too explosive. So it has to be put on a ship in the gulf and taken around the Gulf of Mexico and brought up the coast into the ports in the Northeast. So on top of all of the other subsidy that is in this product, we pay a much higher price for this product which we are forced to buy under this bill. It is truly not energy policy. It is simply an initiative to take care of an interest group that may be very legitimate and they are very nice people, and they certainly have good representatives in the Senate and in the Congress generally, but they cannot defend this product as being a competitive product in the arena of what we should be looking at for various options for fuel with this type of subsidy level. There are no market forces at all involved in this product. It is totally a subsidized event, subsidized by all the taxpayers in the United States for the benefit of the few who produce the product.

Truly, it is a classic example of how not to do an Energy bill because it totally takes the market out of the exercise. Then you get into the special interest projects in this bill. We have heard a little discussion of those. We have these green bond proposals. I think the Senator from Arizona pointed out that one of them would build a Hooters restaurant somewhere in Louisiana. That is paid for in this bill with taxpayers' money. You have $1 billion for coastal impact, almost all of which flows to Louisiana. That is basically a special interest initiative. You have a hydrogen research project for a Freedom Car, which is $2.1 billion. The President asked for $1.2 billion, but the lobbyists and somebody decided that just wasn't enough to take care of this interest group.

That sort of reflects this whole bill. The President asked for $8 billion in tax credits, a reasonable number. It was within the budget. I want to come back to that. Instead, we ended up with a $25 billion tax credit bill, three times the price the President asked, and we don't end up with a better energy policy. We didn't get three times better energy policy than what the President proposed because those tax credits are all being used basically to artificially manage the marketplace and to create events within the marketplace which were not able to stand on their own, and as soon as the tax credit goes away, you will not have that production capability because those products are not viable and they are not competitive for the most part.

In a speech I earlier gave on this bill, I pointed out I went through this once before. We all went through this in the 1980s. At the end of the oil crisis and an embargo in the 1970s, we tried subsidizing different forms of energy at extremely high levels to see if we could not bring them on line and make them competitive commercially. We did shale oil and solar and wind and geothermal. We even did something, I forget the name of it, where we put a ship out in the ocean and ran a pipe in the water and the pipe got cold and we piped it back around. There was some technical name for that. We were building ships to do that.

None of these technologies, except maybe solar and wind, survived, and solar and wind survived in a much different framework than the direction the initial tax incentives pushed them. That is because they were not competitive because, even with those subsidies, they could not compete in the marketplace with the products that were out there beside them.

So, once again, we are seeing that in this bill. It is not energy policy. It is picking winners and losers for the purpose of gaining economic advantage for one sector of the economy over another, one group of people over another, one manufacturing group over another. We have the $1.1 billion proposal to construct an advanced reactor hydrogen cogeneration project in Idaho--$500 million is for the construction, and then we pay $635 million, or as much as is necessary, in order to operate the plant. It is bad enough that we are going to pay to build the plant. But on the face of it, if you are going to have to spend $635 million to operate the plant, you have to conclude the plant isn't too viable as an exercise. We went through this all, by the way. Idaho had another one of these projects which I suspect is interrelated to this, although I don't know it, which didn't fly because it was too heavily subsidized.

The window is open at the bank of the American taxpayer and their checkbook, with item after item of fairly questionable attempts to try to pick winners and losers in the nuclear industry and to do some things which are of questionable value. I could go through the list, but the list has become fairly public and it probably isn't necessary to review it.

There are a couple of other specific ones. It has been reported that the bill for some reason effectively mandates permanent use of the controversial Cross Sound Cable between Connecticut and Long Island. You tell me what that has to do with energy policy. That is an issue between Connecticut and Rhode Island, and Connecticut is a little upset that we are suddenly stepping into their jurisdiction and making that decision for them.

The Energy bill would build a project on the Iron Range, a $1 billion plus Excel Energy Powerplant for the Iron Range. Well, it is $800 million of loan guarantees for that project. It is probably a good project, but it is hard to understand why we should have picked that project, to put that level of tax dollars into this bill.

The list goes on and on, regrettably, to the point of excess in the area of picking winners and losers, and doing it in a way which has no comprehensible relationship to what one might consider to be producing an energy policy that had a rationale behind it, versus an exercise in simply going into a room and listening to the people who are whispering in your ear on the day when you are writing the bill.

That is a big problem, the fact that the bill is not structured very well as an energy policy bill and doesn't address in a thoughtful way or a comprehensive way consumption of renewables or production. There are some production initiatives in this bill which do make sense. I think the Alaska pipeline initiative would probably be very good for this country. I wish they had included ANWR.

But overall this bill is just a hodgepodge, and it is excessive. The fact is that it exceeds the President's request by almost three times, which brings me to the next point. This bill is in violation of at least four budget points of order. That is how excessive it is. The bill violates a spending point of order, it violates a tax point of order, it violates a pay-go point of order, to say nothing of the fact that it violates rule XXVIII.

Why? Because it is totally out of touch with our own budget as a Federal Government. We put in place a Federal budget. We put in place a plan for how much we could spend in developing an energy policy, and then we ignore it in this bill. There is no fiscal responsibility at all reflected in this bill but just the opposite in the way it spends money and in the way it treats the budget which we have passed as a Congress. It is hard for me to understand how the administration could endorse a bill which exceeds their level of spending and tax policy by such a significant number.

We have heard numerous complaints about Congress overspending in a variety of areas. This bill just drives through that barrier as if it weren't even there and proceeds on down the road. The bill has a lot of problems. It has the problem that it is an attack on a region, New England specifically, in the MTBE language. It has the problem that it is not comprehensive in its approach, or at least coordinated in its approach. It is a hodgepodge of various interest initiatives, some of which may score well, some of which may not, but there is certainly no coherence with them.

It is filled with initiatives which are clearly counterproductive to using a marketplace approach, which I think should be the approach we as Republicans would want to use, where we test the product and determine whether or not it can compete in the market, and then we give it support to draw it into the market. But we don't say you don't have to worry at all about the market, as we do in this bill, with a number of different initiatives and production capabilities.

It is expensive. It exceeds the budget by a significant number. It is hard to defend a bill like this, it seems to me. So that is why I hope when we get around to the issue of cloture, or even the issue of points of order, people will take a very serious look at the failures of this bill on those various accounts.

Madam President, I yield the floor.